

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SOUDANI ALEXIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 00-1018-SLR
	)	
STATE OF DELAWARE, SEAFORD	)	
DEPARTMENT OF POLICE, RICHARD	)	
POUNSBERRY, and JASON STERNER,	)	
	)	
Defendants.	)	

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Soudani Alexis, Seaford, Delaware. Pro se.

Gregory E. Smith, Deputy Attorney General, State of Delaware  
Department of Justice, Wilmington, Delaware. Counsel for  
defendant State of Delaware.

Kevin J. Connors, Esquire, Wilmington, Delaware. Counsel for  
defendants Seaford Department of Police, Richard Pounsberry, and  
Jason Sterner.

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**MEMORANDUM OPINION**

Dated: March 14, 2002  
Wilmington, Delaware

**ROBINSON, Chief Judge**

**I. INTRODUCTION**

On December 4, 2000 plaintiff Soudani Alexis, proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983 against the State of Delaware ("the State"), the Seaford Department of Police, Richard Pounsberry, Seaford Chief of Police, and Jason Sterner ("Sterner"), a Seaford police officer.<sup>1</sup> (D.I. 1) Plaintiff alleges he was falsely arrested, presumably in violation of 42 U.S.C. § 1983.<sup>2</sup> Currently before the court is Sterner's motion for summary judgment, the State's motion for final judgment pursuant to Fed. Civ. P. R. 54(b) and plaintiff's cross-motion for summary judgment.<sup>3</sup> (D.I. 51, 54, 55) For the reasons that follow, defendant's motion for summary judgment will be granted.

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<sup>1</sup>The court dismissed all parties except Sterner in his individual capacity because there was a factual dispute in the record over whether Sterner's actions were "objectively reasonable." See Alexis v. Delaware, C.A. No. 00-1018-SLR, 2001 U.S. Dist. LEXIS 8874 at \*12 (D. Del. May 16, 2001). Specifically, the police report contained conflicting eyewitness testimony and did not resolve a missing connection between plaintiff and a Mr. Charles Leontes. Id.

<sup>2</sup>The court identified plaintiff's constitutional issue as the "right not to be arrested absent a showing of probable cause." See Alexis, C.A. No. 00-1018-SLR, 2001 U.S. Dist. LEXIS 8874 at \*10 (D. Del. May 16, 2001).

<sup>3</sup>Plaintiff has also filed motions to amend the complaint; "expand the record," "to stop further vexatious delays of this prima facie case," and "emergency motion to expedite this case." (D.I. 50) Plaintiff has also filed a combined motion to "refuse to entertain the frivolous motion of the defendant." (D.I. 56)

## **II. BACKGROUND**

### **A. Procedural History**

Plaintiff claims that Sterner did not have probable cause to arrest him because Sterner ignored his version of the facts.

(D.I. 55, 59) Plaintiff contends: 1) the arrest was illegally based on plaintiff's race; 2) his fiancée left him as a result of the arrest; 3) his "blood pressure has increased so high" he needs medication and he suffers stress and headaches which require medication. (D.I. 1, 56, 59, 60) Sterner claims he acted in an "objectively reasonable fashion" and "[t]here is no genuine issue of material fact as would prevent the entry of summary judgment in favor of defendant, . . . ." (D.I. 52, ¶ 15)

### **B. Facts**

According to plaintiff, at the time of the alleged incident he worked two jobs at poultry plants in lower Delaware and Maryland. See Alexis, C.A. No. 00-1018-SLR, 2001 U.S. Dist. LEXIS 8874 at \*2 (D. Del. May 16, 2001). On or around December 29, 1999, plaintiff found a ticket on his car indicating he had been involved in a hit and run accident at a local market. Id. The ticket instructed plaintiff to contact the Seaford police. Id. The next day plaintiff contacted the police and denied any involvement in the accident. Id. After receiving the message from plaintiff, Sterner went to plaintiff's home and interviewed him. Id. When Sterner left he told plaintiff he would contact

him later. Id. Plaintiff then went to the scene of the alleged accident and spoke with the hit and run victim, Ms. Alexis.<sup>4</sup> Id. at \*2-3.

Plaintiff indicates he asked the victim whether she called the police and accused plaintiff of hitting her car. Id. at \*3. The victim told plaintiff she called the police, but reported someone other than the plaintiff hit her car. Id. Plaintiff called and left a message for Sterner saying that he talked to the victim and the victim told plaintiff that he was not the person who hit her car. Id. Sterner did not return plaintiff's phone call. Id. One week later, plaintiff saw Sterner, denied involvement in the accident, and told Sterner about plaintiff's conversation with the victim. Id.

On the morning of February 22, 2000, Sterner came to plaintiff's home, woke and then arrested him in front of his fiancée. Id. at \*4. Plaintiff was taken to the Justice of the Peace court where he entered a plea of not guilty. Id. On May 16, 2000, the case against plaintiff was dismissed.<sup>5</sup> Id.

In response, Sterner argues plaintiff's arrest was reasonable and based on the following information. (D.I. 52,

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<sup>4</sup>Plaintiff refers to a Ms. Alexis, whose correct name is Alexis S. Allen. (D.I. 52, Exh. C)

<sup>5</sup>The Court of Common Pleas dismissed the charges under the provisions of Rule 48(b) of the Rules of Civil Procedure of the Court of Common Pleas of Delaware. (D.I. 52, ¶ 14)

exh. C) Sterner states that upon arriving at the Royal Farms store in Seaford, Delaware, he "spoke with Willie F. Brown, who advised me that he observed a white vehicle bearing Delaware Registration 942223 contact a car that was parked . . . in the parking lot as the white vehicle was backing out." (Id. ¶ 3) Mr. Brown yelled at the driver of the white car after "observing the front end of the white vehicle strike the driver's side of the car," and identified the driver of the white car as a "black male, who immediately left the parking lot." (Id. ¶ 4, 5) Mr. Brown then told him that the white vehicle that struck the parked car was located at the corner of King and Market Streets in Seaford, Delaware. (Id. ¶ 6) Sterner also spoke with Alexis S. Allen who is listed as W-2 on the police report. (Id. ¶ 8) Ms. Allen was the driver of the car, a 1993 green Ford Taurus ("Taurus") damaged by the white vehicle. (Id. ¶ 9) Ms. Allen informed Sterner that she was driving the Taurus with the permission of the owner of the car, Ralph Elsey, Jr. (Id.) Based on this information, Sterner claims he went to the corner of King and Market Streets, in Seaford, and observed a white car which had marks consistent with damage observed on the Taurus in the Royal Farms parking lot. (Id. ¶ 10)

Sterner next interviewed individuals in the area who informed him that plaintiff was the owner of the parked white vehicle. (Id. ¶ 11) Sterner was unable to contact plaintiff on

December 30, 1999 so he left a ticket on the windshield of the car asking the owner to contact him at the Seaford Police Department. (Id. ¶ 12.) After running a computer check on the tags of the white vehicle, Sterner learned the owner of the car was a Mr. Leontes. (Id. ¶ 13) Sterner spoke with plaintiff on December 31, 1999, and plaintiff admitted he was at the Royal Farms store on December 30, 1999. (Id. ¶ 14) Sterner claims that after further questioning plaintiff denied being at the store and indicated the damage to the white vehicle was old. (Id. ¶ 14) Based on this information, Sterner obtained traffic warrants for plaintiff's arrest. (Id. ¶ 15)

In his reply brief, plaintiff contends he told Sterner about the marks on the bumper of the white vehicle. (D.I. 55) He alleges the mark was not fresh and was the size of a nickel. (Id.) Plaintiff told Sterner the mark was the result of a traffic accident that occurred on February 14, 1998 while he was driving on Highway 13 near Salisbury at about eight o'clock in the evening. (Id.) He claims he was driving fifty-five miles an hour and hit the rear of a car that pulled in front of him without using a signal. (Id.) Because there was no observable damage to the car, plaintiff did not report the accident. (Id.)

Plaintiff claims that Sterner picked his white vehicle because he lives eighty feet from the Royal Farms market. (Id.) He also argues that Ms. Allen knows the identity of the hit and

run driver, and it is not plaintiff. (Id.) Plaintiff indicates he told Sterner before his arrest that there were other people in the neighborhood that drive the same type of white vehicle and asked him to "check with the people who owned the same car, but he ignored me." (D.I. 59)

### **III. STANDARD OF REVIEW**

A court shall grant summary judgment only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The moving party bears the burden of proving that no genuine issue of material fact exists. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986). "Facts that could alter the outcome are 'material,' and disputes are 'genuine' if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct." Horowitz v. Fed. Kemper Life Assurance Co., 57 F.3d 300, 302 n.1 (3d Cir. 1995) (internal citations omitted). If the moving party has demonstrated an absence of material fact, the nonmoving party then "must come forward with 'specific facts showing that there is a genuine issue for trial.'" Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)). The court will "view the underlying facts and

all reasonable inferences therefrom in the light most favorable to the party opposing the motion.” Pa. Coal Ass’n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995). The mere existence of some evidence in support of the nonmoving party, however, will not be sufficient for denial of a motion for summary judgment; there must be enough evidence to enable a jury reasonably to find for the nonmoving party on that issue. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986). If the nonmoving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

#### **IV. DISCUSSION**

The only issue remaining from the May 16, 2001 motion to dismiss was the issue of qualified immunity for defendant Sterner. See Alexis, C.A. No. 00-1018-SLR, 2001 U.S. Dist. LEXIS 8874 at \*12 (D. Del. May 16, 2001). At that time, the court refused to consider the police report filed by defendant Sterner in connection with his motion to dismiss. Id. The court noted two discrepancies in the police report that raised issues of fact: the conflicting eyewitness testimony and the missing link between Mr. Leontes and plaintiff. Id.

Consequently, the issue in the case is whether Sterner acted in an objectively unreasonable manner and arrested plaintiff



absent probable cause. If Sterner's actions were objectively reasonable he is entitled to qualified immunity. An arresting officer may only be liable for civil damages if "'no reasonable competent officer' would conclude that probable cause exists." See Wilson v. Russo, 212 F.3d 781, 790 (3rd Cir. 2000) (quoting Malley v. Briggs, 475 U.S. 335, 341). An arresting officer has probable cause if there is a "fair probability" the person committed the crime. See id. at 789.

An arresting officer has acted in an objectively reasonable manner if the information gathered during the investigation supports the belief that "an offense has been or is being committed by the person to be arrested." See Orsatti v. New Jersey State Police, 71 F.3d 480, 484 (3d Cir. 1995).

When the arresting officer knows of "independent exculpatory evidence" or that a witness is unreliable, probable cause will not exist if it outweighs the inculpatory evidence. See Wilson, 212 F.3d at 790. An arresting officer also does not have a duty to "investigate independently every claim of innocence" even when it is "based on mistaken identity." See Baker v. McCollan, 443 U.S. 137, 145-46 (1979).

Sterner's affidavit explains how he "gained the suspect's address." He interviewed individuals who live in the area, he did not solely rely on information provided by Mr. Brown. This only adds to Sterner's reasonable belief that plaintiff was

connected to the white car allegedly involved in the accident. The additional information provided by Sterner in his affidavit reconciles the discrepancies in the police report.

By interviewing plaintiff and running a computer check on the tags of the white car, Sterner found out Mr. Leontes is the owner of the white car plaintiff drives. Sterner not only relied on Mr. Brown's eyewitness testimony, he relied on Ms. Allen's testimony about a white car. Ms. Allen also told Sterner she was the driver, not the owner of the Taurus. Sterner also observed fresh damage on plaintiff's white car consistent with damage on the Taurus. These investigative actions support the reasonable belief that plaintiff drove the white car involved in the accident.

Any exculpatory information provided by plaintiff, such as explaining that the damage to his car was old, did not outweigh the inculpatory information. Additionally, Sterner did not have a duty to solely rely on plaintiff's claims of innocence when he had a reasonable belief that plaintiff hit the parked Taurus and left the scene of the accident.

While plaintiff's affidavits and briefs express a keen sense of frustration, they do not provide any additional information that presents a genuine issue of material fact. After interviewing the witnesses and observing the damage on both vehicles, combined with plaintiff's initial admission, it is

reasonable that Sterner believed plaintiff was involved in the hit and run accident. It should be noted that Sterner only needed to believe there was a "fair probability" that plaintiff was involved in the accident.

However upset plaintiff may be over what he perceives as heavy-handed police action, Sterner's actions in obtaining the warrant and arresting plaintiff were objectively reasonable and he is entitled to qualified immunity.

#### **V. CONCLUSION**

For the reasons stated, defendant's motion for summary judgment shall be granted.

An order shall issue.